

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

CrI.MC.No. 3514 of 2007()

ST.1385/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD

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PETITIONER: ACCUSED

P.P.GEORGE, S/O.P.O.PYLOTH,
PZHOLIPARAMBIL HOUSE, MANNAMPETTA,
VAVAKKARA P.O., THRISSUR.

BY ADV. SRI.RAJESH CHAKYAT

RESPONDENTS: STATE AND COMPLAINANT

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. M/S.SHRIRAM INVESTMENTS LTD.,
2ND FLOOR, SUNSHINE COMPLEX, TB ROAD,
PALAKKAD REPRESENTED BY ITS LEGAL ASSISTANT.

BY P.P. SRI.P. RAVEENDRA BABU.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3514 OF 2007

Dated this the 22nd day of November, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. Cognizance was taken by the learned Magistrate as early as in 2005. The petitioner has not entered appearance so far. A non-bailable warrant of arrest has been issued against the petitioner and coercive steps have been initiated under Secs.82 and 83 of the Cr.P.C.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. The complainant knew that he was appearing before another court in a prosecution initiated by the complainant. But the complainant did not apprise the petitioner of the pendency of this proceeding. The petitioner is willing to surrender before the

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learned Magistrate and seek regular bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to

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the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

**Sd/-
(R. BASANT, JUDGE)**

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P.S. to Judge